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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re NATALIA M., a Person Coming
Under the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

IRENE P.,

Defendant and Appellant.

G043516

(Super. Ct. No. DP019190)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Jane Shade, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Aida Aslanian, under appointment by the Court of Appeal, for Defendant and Appellant.

Nicholas S. Chrisos, County Counsel, Karen L. Christensen and Jeannie Su, Deputy County Counsel, for Plaintiff and Respondent.

No appearance for the Minor.

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The juvenile court did not abuse its discretion in terminating jurisdiction and granting custody of the minor to her father. We affirm.

I

FACTS

Natalia M. was born in 2001. She has four younger half siblings, all with last names different from each other. In late 2009, the children were taken into protective custody “due to physical abuse of the children by their maternal grandmother,” the seventh child abuse referral since 2004. At the time of detention, the address of her mother, Irene P., was a jail, and the address of her father, Francisco V., was unknown.

Within a few weeks, the father was located and counsel was appointed to represent him. The father requested custody of Natalia. He had regularly visited with her until the previous August when he moved to Utah in connection with his job.

The social worker with Orange County Social Services Agency (SSA) reported to the court: “The undersigned does not possess any concerns as to the father reunifying with the child, as no criminal records came to surface on [the father]. As to the weekend visit the child had with her father on January 16, 2010, the child told the undersigned she had fun and wishes to have more visits with her father.”

At the contested disposition hearing, the social worker testified she believed the father had previously tried to protect Natalia from abuse because he reported abuse and gave photos of the child’s bruises to a social worker. She said the father needed no services. She spoke with the father’s sister who lives in Utah and was satisfied with the father’s living arrangements and that he had a job in Utah. She recommended that dependency proceedings be terminated as to Natalia, and that the father have custody of her.

Natalia testified she and the father go to the park together. When she is with him, she said she feels safe and cared for. When she sees him, she hugs him, and she calls him “dad.” She told the court she would like to live with the father in Utah.

She understood her mother and siblings would not be going to Utah, and said she could write letters to her brothers and sisters.

Natalia calls her mother “Irene.” She said she misses her. She wrote the mother a letter which states: “Dear Irene, I miss you so much. I hope you were at home to visit me. If you get [unreadable word], I will listen to you. [¶] From your daughter.”

The court removed Natalia from the mother’s custody, finding by clear and convincing evidence removal was necessary for Natalia’s physical health and safety. Under Welfare and Institution’s Code section 361.2, the court vested primary physical custody with the father, but joint legal custody with both parents. (All further statutory references are to the Welfare and Institutions Code.) The court explained: “The combined facts of [Natalia]’s desire to live with her father, the availability of father’s loving extended family in Utah who can help support and care for [Natalia], [Natalia]’s familiarity with her father and his extended family and father’s efforts to protect [Natalia] coupled with her father’s steadfast love for her and his long-term efforts to obtain custody and/or visitation indicate that placement of [Natalia] should be with the father.”

The mother has visitation rights. The parents are to alternate holidays with Natalia, and Natalia is to spend six weeks in the summer with the mother. The mother may have additional visits, depending on the location of the mother and Natalia. In making its rulings, the juvenile court noted: “It is anticipated that when [Natalia] is in Orange County visiting her mother, she will also be able to have visits with her half siblings.”

II

DISCUSSION

Termination of Jurisdiction

The mother contends the juvenile court abused its discretion when it terminated jurisdiction and granted physical custody to the father. She argues “placement

and custody determinations under § 361.2 are not synonymous and require different considerations.”

“(a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.” (§ 361.2, subd. (a).) A section 361.2 subdivision (a) finding is reviewed for substantial evidence. (*In re John M.* (2006) 141 Cal.App.4th 1564, 1569-1570.)

“(b) If the court places the child with that parent it may do any of the following: [¶] (1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child.” (§ 361.2, subd. (b)(1).) “The decision whether to provide services and to which parent is discretionary to the court because the child is not out of the home, but in placement with a parent.” (*In re Gabriel L.* (2009) 172 Cal.App.4th 644, 651.)

“In examining section 361.2, subdivisions (a) and (b), it is clear that the Legislature envisioned a two-step process: under subdivision (a), the court examines whether it would be detrimental to temporarily place a child with the nonoffending noncustodial parent; under subdivision (b), the court decides whether that placement should be permanent and whether the court’s jurisdiction should be terminated.” (*In re Austin P.* (2004) 118 Cal.App.4th 1124, 1131.) When placement is with a parent, “the appropriate investigation is a basic one, less rigorous than the investigation necessary for placement with a more distant relative such as a cousin.” (*In re John M., supra*, 141 Cal.App.4th 1564, 1573.)

“‘Although a parent’s interest in the care, custody and companionship of a child is a liberty interest that may not be interfered with in the absence of a compelling state interest, the welfare of a child is a compelling state interest that a state has not only a right, but a duty, to protect.’ [Citation.] The dependency statutes fulfill this duty by authorizing judicial intervention to protect children who are at substantial risk of physical or emotional harm. [Citation.] The state’s compelling interest in protection requires the court to focus on the child’s placement and well-being, rather than on a parent’s custody challenge. [Citation.]” (*In re Luke M.* (2003) 107 Cal.App.4th 1412, 1423.)

“Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether there are any siblings under the court’s jurisdiction, the nature of the relationship between the child and his or her siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child’s placement and planning for legal permanence.”
(§ 361.2, subd. (i).)

The court followed the requirements of section 361.2. With regard to Natalia’s siblings, the statute requires that sibling relationships be *considered* in making placement orders, not that siblings must always be placed together regardless of other circumstances. From the record before us, it is clear the court considered Natalia’s relationship with her siblings, along with numerous other factors, in deciding to give physical custody of her to her father.

As far as SSA’s investigation of the father goes, the mother has not cited to any law which requires any more investigation of the father than what was done. Not only was it known that he has no criminal record, sufficient investigation was done to find out that the father had unsuccessfully attempted to stop the abuse of Natalia. The court also knew he had a job and a home in Utah with a large extended family. Natalia knows the family and prefers to live with her father where she feels loved.

We find nothing which indicates any error of the juvenile court. The court did not abuse its discretion in terminating jurisdiction and granting custody of Natalia to her father.

III

DISPOSITION

The judgment is affirmed.

MOORE, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

O'LEARY, J.